



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/756,446

01/08/2001

Thomas D. Williams

P992

5545

23386

7590

04/03/2006

MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.,
SUITE 1150
IRVINE, CA 92612

EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/756,446

Applicant(s)

WILLIAMS, THOMAS D.

Examiner

Melur Ramakrishnaiah

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Art Unit: 2643

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 9, 11-16, 17-22, 25, 27-32, are rejected under 35 U.S.C 102(b) as being anticipated by Gershen (UA PAT: 5,801,694).

Regarding claims 1 and 17, Gershen discloses an apparatus and method for delivering user selected files over a distributed network comprising: a server (150, col. 4 lines 52-54) coupled to the distributed network, a client (constituted by 160, 165, 170, 180, 190, fig. 1), a database (110, fig. 1, col. 4 lines 16-36) for storing the plurality of data files communicating with the server (col. 2 lines 60-67, col. 3 lines 1-21), a mixer communicating with the database and server for mixing selected ones of the plurality of data files together, a recorder communicating with the client for recording a user created data track, the client transferring the user created data file to the server and hence to the database (fig. 4, col. 4 lines 40-67, col. 5 lines 1-20).

Regarding claims 2-6, 9, 11-16, 18-22, 25, 27-32, Gershen further teaches the following: server transfers a user selected mixed data file to the client comprised of at least two data files selected by a user from the database (fig. 6 col. 4 lines 40-55), client replays the mixed data file (col. 5 lines 4-5), client stored mixed data file (this step is

Art Unit: 2643

implicit in much user system out puts mixed data, col. 5 lines 21-39), processing by the server, client, mixer and recorder process comprise: audio data files, music data files, text data files (col. 6 lines 26-38), database includes data fields for categories and subcategories of data files, data files comprises categories and subcategories of music styles (col. 5 lines 56-67, col. 6 lines 1-25), data files stored in the database are characterized as primary track data file or an accompaniment track data file, mixer mixes into a single data file with at least one accompaniment track data file, mixer mixes plurality accompaniment track data files with primary track data files, primary track data file or the accompaniment track data file is user created (col. 3 lines 63-67, col. 4 lines 1-36), creating a text file associated with a user created data file on a client, transferring the associated text file from the client to a server on the distributed network and to a database communicated with the server, the database having stored therein a plurality of data files each with text files associated therewith, and transferring the mixed plurality of data files from the server to the client via the distributed network with associated text files corresponding to each data file which has been mixed to-gather (col. 6 lines 26-56).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said

Art Unit: 2643

subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7 and 23, 8 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gershen in view of Robell et al. (WO98/48532, hereinafter Robell).

Gershen differs from claims 7 and 23 in that he does not teach the following: data files processed comprise wav files.

However, Robell discloses customized music distribution and playback system which teaches the following: data files processed comprise wav files (page 5 lines 34-35, page 6 lines 1-12).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Gershen's system to provide for the following: data files processed comprise wav files as this arrangement would provide one of the well known formats for storing and processing the files as taught by Robell.

Regarding claims 8 and 24, Gershen does not teach the following: server and client compresses data files communicated with the network and uncompresses files received from the network.

However, Robell discloses customized music distribution and playback system which teaches the following: server and client compresses data files communicated with the network and uncompresses files received from the network (page 5 lines 15-33, page 6 lines 31-35, page 7 lines 1-16).

Art Unit: 2643

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Gershen's system to provide for the following: server and client compresses data files communicated with the network and uncompresses files received from the network as this arrangement would facilitate reducing the data for storage and transmission as taught by Robell, thus minimizing the transmission bandwidth and storage space as is well known in the art.

5. Claims 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gershen in view of Abecassis (US PAT: 6,192,340 B1, filed 10-19-1999).

Gershen differs from claim 10 and 26 in that he does not explicitly teach the following: files processed comprises associated picture data files.

However, Abecassis discloses integration of music from a personal library with real time information which teaches the following: files processed comprises associated picture data files (col. 1 lines 42-51, col. 29 lines 20-25).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Gershen's system to provide for the following: files processed comprises associated picture data files as this arrangement would provide means to enrich audio with accompanying video as taught by Abecassis.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (703) 305-1461. The examiner can normally be reached on Monday to Friday from 7 AM to 4 PM.

Art Unit: 2643

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708. The fax phone number for this Group is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231


or faxed to:

(703) 308-6306, (for formal communications intended for entry)

Or:

(703) 305-9508 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington.
VA., Sixth Floor (Receptionist).


Melur. Ramakrishnaiah

PRIMARY EXAMINER

Art Unit 2643.